

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**September 24, 2002**

**IN RE:**

**ADELPHIA BUSINESS SOLUTIONS  
OPERATIONS, INC. NOTIFICATION  
OF DISCONTINUANCE OF SERVICE  
IN THE TRI-CITIES, TN AREA**

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**DOCKET NO.  
02-00990**

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**ORDER APPROVING CUSTOMER NOTIFICATION LETTER, WAIVING  
REQUIREMENT OF NINETY DAYS NOTIFICATION TO THE AUTHORITY, AND  
APPROVING PETITION TO BE CONDITIONAL CARRIER**

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This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Pat Miller of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket, at an emergency Authority Conference held on September 13, 2002, for consideration of the *Notification of Discontinuance of Service in the Tri-Cities, TN Area* (“Notification”), filed by Adelphia Business Solutions Operations, Inc. (“Adelphia”), and the *United Telephone-Southeast, Inc. Petition for Exemption from Rules to Be a Conditional Carrier* (the “Petition”) filed by United Telephone-Southeast, Inc. (“UTSE”).

**Background**

Adelphia’s Notification is contained in a letter dated July 3, 2002. The Notification informs the Authority that Adelphia is discontinuing its basic local service in the Tri-Cities area<sup>1</sup> in the territory served by UTSE. Adelphia states that it sent this letter to the Authority via UPS on July 3, 2002; however, the letter was not delivered to the Authority’s docket room. After

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<sup>1</sup> The “Tri-Cities” are Johnson City, Bristol, and Kingsport.

subsequently learning of Adelphia's intent to discontinue service, the Authority obtained a copy of the July 3, 2002 letter, which was then filed on September 11, 2002, and this docket was opened. The Notification states that by letter mailed on June 17, 2002, Adelphia notified its customers in writing of its plan to discontinue service no earlier than September 20, 2002. Adelphia provided a copy of its customer notification letter with its Notification to the Authority.

Prior to its decision to discontinue service, Adelphia served more than 11,000 business lines in the Tri-Cities area. As of September 9, 2002, approximately 7,650 Adelphia customers in the UTSE territory were still being served by Adelphia, which indicated that the migration of customers to other carriers was not taking place as expected. In order to prevent numerous existing Adelphia customers from being without local service after September 20, 2002, the Authority issued a press release on September 12, 2002 in the Tri-Cities area reminding Adelphia customers of the necessity of selecting another carrier and informing them of the competitive providers available in the area.

In order to ensure that no existing customer of Adelphia will be without local service after Adelphia discontinues service, UTSE filed its Petition on September 11, 2002. The Petition requests that UTSE be designated as the default carrier of any of Adelphia's customers who do not select another local service provider by the time Adelphia discontinues service. UTSE also requests that the Authority waive Authority Rule 1220-4-2-.56, which requires carrier verification of a subscriber's authorization of a change in preferred carrier, and Authority Rule 1220-4-2-.58, which requires subscriber consent to being billed by a new carrier. UTSE states that such waiver will allow UTSE to prevent the disruption of service to customers who have not chosen another provider by the date Adelphia discontinues service. UTSE further requests that the Authority waive, to the extent necessary, Authority Rule 1220-4-2-.12, which provides the

conditions under which a telecommunications company may refuse or discontinue service to a customer. UTSE states that such waiver may be necessary to allow UTSE to disconnect any customers transferred to UTSE from Adelphia who do not comply with UTSE's credit, deposit, or payment requirements. In addition, UTSE states that it needs Adelphia to provide UTSE with Adelphia's customer contact information no later than September 18, 2002, and UTSE requests that the Authority confirm that the Authority's rules do not prohibit Adelphia from providing this information to UTSE. UTSE is the underlying carrier for Adelphia and is designated as the only carrier of last resort in UTSE's service area.

#### **Standard for Approval by the Authority**

The Authority's Rules allow the termination of local service offerings by telecommunications carriers as long as certain conditions are met. Authority Rule 1220-4-8-.07(2)(d) states the following:

Withdrawal of a basic local service offering may be permitted after ninety (90) days prior notice to the [Authority], and after sixty (60) days prior notice to individual customers by direct mail or by publication of a notice in the newspaper of general circulation in the affected service area. Any such withdrawal shall be approved by the [Authority] before implementation.

#### **Findings**

The Authority finds that the customer notification letter submitted with Adelphia's Notification to the Authority is appropriate and in compliance with the sixty (60) day notice requirement in Authority Rule 1220-4-8-.07(2)(d). Further, although Rule 1220-4-8-.07(2)(d) requires ninety (90) days notice to the Authority, the Authority finds that there is sufficient cause<sup>2</sup> to grant a waiver of the Authority notice requirement pursuant to Authority Rule 1220-1-1.05(1). This Rule states:

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<sup>2</sup> Adelphia filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code on March 27, 2002.

For good cause, including expediting the disposition of any matter, the Authority may waive the requirements or provisions of any of these rules in a particular proceeding, on motion of a party or on its own motion, except when a rule embodies a statutory requirement. The Authority shall state the basis of any such waiver and may impose condition or limitations consistent with the basis for the construction of these rules.

During the September 13, 2002 Authority Conference, counsel for UTSE stated that UTSE is planning to send letters to all Adelphia customers who are transferred to UTSE, informing those customers that they have been transferred from Adelphia to UTSE and reminding them that they can select another carrier. Counsel for UTSE also agreed that UTSE would send letters to transferred customers with unpaid balances of over \$200.00, asking each such customer if UTSE may make arrangements for the customer to pay the unpaid balance, and would provide the Authority with a copy of a sample letter as well as a spreadsheet showing the names of all customers to whom such a letter is sent.

Upon consideration of the Notification, the Petition, and the entire record in this matter, the voting panel voted unanimously to approve Adelphia's notification letter to its customers pursuant to Authority Rule 1220-4-8-.07(2)(d), waive the requirements of ninety (90) days notice to the Authority in Authority Rule 1220-4-8-.07(2)(d), and grant UTSE's Petition.

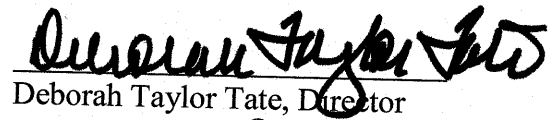
**IT IS THEREFORE ORDERED THAT:**

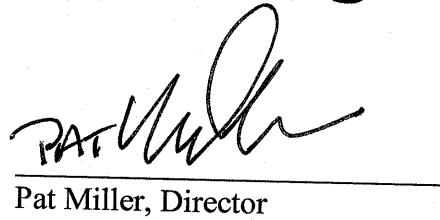
1. The customer notification letter filed by Adelphia Business Solutions Operations, Inc. is approved.
2. The requirement of ninety (90) days prior notice to the Authority of a withdrawal of a basic local service offering is waived with regard to Adelphia's Notification to the Authority.

3. The Petition of United Telephone-Southeast, Inc. requesting approval to be a conditional carrier for Adelphia's customers in the Tri-Cities area is approved.

4. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order.

  
Sara Kyle, Chairman

  
Deborah Taylor Tate, Director

  
Pat Miller, Director